S.B.Civil Writ Petition No.6900/2007
Purshotam Sharma
vs
The Addl. District Judge Sojat & Anr.

Date of order : 26.10.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.Sanjeet Purohit, for the petitioner.

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Heard learned counsel for the petitioner.

It appears that plaintiff in a suit filed for rendition of accounts mentioned that the arbitrator may be appointed for taking accounts. The defendant in view of the above reason, took a defence that since the plaintiff sought relief of appointment of arbitrator, therefore, plaintiff's suit as such is not maintainable as the decree for appointment of arbitrator cannot be passed and arbitrator can be appointed only in accordance with the provisions of Arbitration and Conciliation Act, 1996. The trial court did not frame the issue on the plea of the defendant, therefore, the defendant-petitioner submitted application under Order 14 Rule 5 CPC and prayed that a issue be framed that suit of the plaintiff is not maintainable for appointment of arbitrator. The application was dismissed by the trial court vide order dated 24.7.2007, hence, this writ petition.

It appears that in the suit for rendition of account, the plaintiff prayed for appointment of arbitrator but that is on the face of it a mistake only because in the suit for rendition of account, the Commissioner is appointed for taking accounts and not the arbitrator. Learned counsel for the petitioner-defendant also admitted that there is no arbitration agreement between the parties.

In view of the above, it is a matter of typing mistake or inadvertent mistake in describing the authority who can take accounts in the suit for rendition of account.

In view of the above reason, the issue proposed by the petitioner is unnecessary and, therefore, I do not find any merit in the writ petition. Hence, the writ petition of the petitioner is dismissed.

(PRAKASH TATIA), J.

c.p.goyal/-